

REMARKS

Claims 1-25 are pending in the present application. Claims 1-7, 12 and 14-21 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 10/353,063 to Silberberg et al. Claims 8, 9, 22 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Silberberg et al. in view of U.S. Patent No. 6,898,367 B2 issued to Birk et al. Applicant gratefully acknowledges this indication of allowability.

Consideration of information disclosure statement

In the information disclosure statement filed September 15, 2003, the Examiner has lined through and not initialed the two non-English language references AJ and AK cited on the Form PTO-1449. An English language abstract was submitted for each of these non-English language references. It is respectfully submitted that submission of an English language abstract of a reference may fulfill the requirement for a concise explanation. See MPEP § 609 III A (3). Consideration of the cited references and initialing of the Form PTO-1449 is respectfully requested.

Rejection under 35 U.S.C. § 102(e)

Claims 1-7, 12, and 14-21 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 10/353,063 to Silberberg et al.

Silberberg et al. was filed on January 29, 2003 and thus has that effective prior art date under 35 U.S.C. § 102(e). Applicants have claimed the benefit of the filing date of applicant's German priority application No. DE 102 43 449.2, filed on September 19, 2002. Applicant has previously submitted a certified copy of the priority document, DE 102 43 449.2. An English-language translation of this document is submitted herewith, along with a statement that the translation of the certified copy is accurate.

Accordingly, applicant has overcome the Silberberg et al. reference by perfecting the claim to priority to an earlier filing date, 37 CFR 1.55 (4)(i)(b), and respectfully request withdrawal of the rejections to claims 1-7, 12, and 14-21 under 35 U.S.C. § 102(e) based on this reference.

Rejection under 35 U.S.C. §103(a)

Claims 8, 9, 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Silberberg et al. in view of U.S. Patent No. 6,898,367 B2 issued to Birk et al.

As discussed above relative to the rejection under 35 U.S.C. § 102(e), the Silberberg et al. reference has been overcome by perfecting priority to an earlier filing date.

Withdrawal of the rejection claims 8, 9, 22 and 23 under 35 U.S.C. §103(a) based on Silberberg et al. in view of Birk et al. is respectfully requested.


CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By:


Erik R. Swanson, Reg. No. 40,833

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940